

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

CHRISTOPHER DESHONE BENOMAN

PETITIONER

V.

NO. 4:19-CV-102-DMB-RP

**EAST MISSISSIPPI CORRECTIONAL
FACILITY, et al.**

RESPONDENTS

ORDER TRANSFERRING CASE

On July 2, 2019, Christopher Deshone Benoman filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions and sentences in the Lauderdale County Circuit Court, Mississippi, for two counts of the lustful touching of a child. Doc. #1 at 1.

Benoman has filed at least one unsuccessful § 2254 motion challenging the same convictions he seeks to challenge in this action. *See Benoman v. Crockett*, No. 3:15cv531-DPJ-FKB, 2016 U.S. Dist. LEXIS 79813, at *1 (S.D. Miss. May 19, 2016). The Antiterrorism and Effective Death Penalty Act requires that an applicant seeking to file a second or successive petition first “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). It does not appear that Benoman obtained such authorization before filing this action.

Rather than dismissing a habeas petition on the basis that it is successive, the Fifth Circuit has allowed district courts to transfer the petition for consideration pursuant to 28 U.S.C. § 2244(a) and (b)(3)(C). *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997). Therefore, in the interest of justice and judicial economy:

1. Benoman’s petition is **TRANSFERRED** to the Fifth Circuit Court of Appeals for him to seek permission to file his successive § 2254 petition;

2. The Clerk of the Court shall transfer this petition and the entire record to the Fifth Circuit Court of Appeals in accordance with 28 U.S.C. § 2244(a) and (b)(3)(C), and *In re Epps*, 127 F.3d at 365; and

3. This case is **CLOSED**.

SO ORDERED, this 7th day of October, 2019.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE